

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 25, 2005

IN RE:)	
)	
FORMAL COMPLAINT BY KING'S CHAPEL)	DOCKET NO.
CAPACITY, LLC AGAINST TENNESSEE)	05-00016
WASTEWATER SERVICES REGARDING ABUSE OF)	
ITS CCN)	

ORDER GRANTING MOTION TO HOLD PROCEEDINGS IN ABEYANCE

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on April 4, 2005 for consideration of the *Motion to Dismiss or, in the Alternative, to Hold in Abeyance* (the "*Motion*") filed by Tennessee Wastewater Services, Inc. ("TWS") on March 11, 2005.

BACKGROUND

On January 14, 2005, in this Docket, Kings Chapel Capacity, LLC ("KCC") filed a formal complaint ("Complaint") against TWS for allegedly abusing its Certificate of Public Convenience and Necessity ("CCN"). In the Complaint, KCC alleges that TWS has abused its CCN in the following ways:

1. TWS claims that it has an exclusive CCN from the TRA for the Ashby Community area and in order for KCC to obtain wastewater service from TWS, KCC must use TWS affiliates for all wastewater construction and materials. If KCC does not use

TWS affiliates for construction, then TWS will refuse to provide utility service and maintenance to KCC.

2. KCC was forced to agree to pay excessive “inspection fees” to the very TWS affiliate that constructed the system, and the construction work itself was not performed by a licensed contractor.
3. TWS demanded that KCC pledge assets and post all local bonds and pay the associated bonding costs regarding the performance bond required by Williamson County.
4. TWS abused its monopoly power systematically over a long period of time resulting in significant overcharges to TWS customers through higher lot prices.

On March 11, 2005 TWS filed the *Motion* requesting that this Docket be dismissed or, in the alternative, held in abeyance.

MOTION TO DISMISS OR, IN THE ALTERNATIVE, TO HOLD PROCEEDINGS IN ABEYANCE

In the *Motion* TWS asserts that the claims in this Docket are beyond the jurisdiction of the TRA. TWS argues that, as a result, KCC’s Complaint alleging that TWS is abusing its CCN should be dismissed or, in the alternative, held in abeyance pending the outcome of the lawsuit filed by TWS in the Chancery Court of Williamson County to resolve contractual issues that gave rise to the present action.¹

¹ On October 5, 2004, in Docket No 04-00335, KCC filed a *Petition* with the Authority requesting a CCN to provide wastewater services for the Ashby Community. Then, on October 11, 2004 TWS filed its *Petition to Intervene of Tennessee Wastewater Systems, Inc* stating that it already possessed a CCN to provide wastewater services in that area and, thus, KCC’s *Petition* must be denied. On November 1, 2004 TWS filed suit in the Chancery Court of Williamson County seeking enforcement of the November 3, 2003 contract. Subsequently, on December 2, 2004 TWS filed a *Motion to Hold the Proceedings in Abeyance* in TRA Docket No 04-00335, pending resolution of the matter by TDEC and a final determination by the Williamson County Chancery Court. Ultimately, the Hearing Officer granted the motion and declared that the proceedings be held in abeyance.

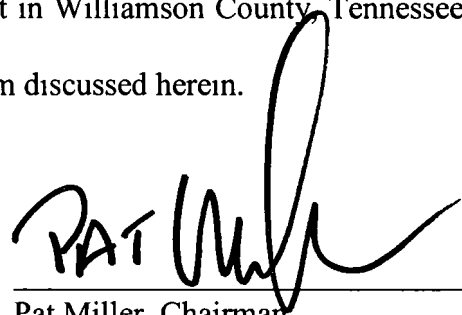
APRIL 4, 2005 AUTHORITY CONFERENCE

The claims involved in this Docket are primarily contractual in nature and are related to the pending action in the Williamson County Chancery Court. As a result, the voting panel found that it would be imprudent for the Authority to move forward until the action pending in Chancery Court is resolved. The panel further directed the Parties to file with the Authority any decision by the Chancery Court concerning ownership of the wastewater system discussed herein.


IT IS THEREFORE ORDERED THAT:

1. The *Motion to Dismiss or, in the Alternative, Hold in Abeyance* filed by Tennessee Wastewater Systems, Inc. is granted insofar as this matter shall be held in abeyance pending a decision by the Chancery Court in Williamson County, Tennessee regarding the dispute over ownership of the wastewater system discussed herein.

2. The parties are directed to file with the Authority any written decision or any other filing evidencing a decision by the Chancery Court in Williamson County, Tennessee regarding the dispute over ownership of the wastewater system discussed herein.


Pat Miller, Chairman


Deborah Taylor Tate, Director


Ron Jones, Director